

EN BANC

[G.R. No. 133064, September 16, 1999]

**JOSE C. MIRANDA, ALFREDO S. DIRIGE, MANUEL H. AFIADO,
MARIANO V. BABARAN AND ANDRES R. CABUYADAO,
PETITIONERS, VS. HON. ALEXANDER AGUIRRE, IN HIS
CAPACITY AS EXECUTIVE SECRETARY; HON. EPIMACO VELASCO,
IN HIS CAPACITY AS SECRETARY OF LOCAL GOVERNMENT, HON.
SALVADOR ENRIQUEZ, IN HIS CAPACITY AS SECRETARY OF
BUDGET, THE COMMISSION ON AUDIT THE COMMISSION ON
ELECTIONS HON. BENJAMIN G. DY, IN HIS CAPACITY AS
GOVERNOR OF ISABELA, THE HONORABLE SANGGUNIAN
PANLALAWIGAN OF ISABELA, ATTY. BALTAZAR PICIO, IN HIS
CAPACITY AS PROVINCIAL ADMINISTRATOR, AND MR. ANTONIO
CHUA, IN HIS CAPACITY AS PROVINCIAL TREASURER,
RESPONDENTS,**

GIORGIDI B. AGGABAO, INTERVENOR.

DECISION

PUNO, J.:

This is a petition for a writ of prohibition with prayer for preliminary injunction assailing the constitutionality of Republic Act No. 8528 converting the city of Santiago, Isabela from an independent component city to a component city.

On May 5, 1994, Republic Act No. 7720 which converted the municipality of Santiago, Isabela into an independent component city was signed into law. On July 4, 1994, the people of Santiago ratified R.A. No. 7720 in a plebiscite.^[1]

On February 14, 1998, Republic Act No. 8528 was enacted. It amended R.A. No. 7720. Among others, it changed the status of Santiago from an independent component city to a component city, *viz*:

"AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED 7720 – AN ACT CONVERTING THE MUNICIPALITY OF SANTIAGO INTO AN INDEPENDENT COMPONENT CITY TO BE KNOWN AS THE CITY OF SANTIAGO.

"Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

"SECTION 1. Section 2 of Republic Act No. 7720 is hereby amended by deleting the words "an independent" thereon so that said Section will read as follows:

'SEC. 2. *The City of Santiago.* – The Municipality of Santiago shall be converted into a component city to be known as the City of Santiago, hereinafter referred to as the City, which shall comprise of the present territory of the Municipality of Santiago, Isabela. The territorial jurisdiction of the City shall be within the present metes and bounds of the Municipality of Santiago.'

"Sec. 2. Section 51 of Republic Act No. 7720 is hereby amended deleting the entire section and in its stead substitute the following:

'SEC. 51. *Election of Provincial Governor, Vice-Governor, Sangguniang Panlalawigan Members, and any Elective Provincial Position for the Province of Isabela.*– The voters of the City of Santiago shall be qualified to vote in the elections of the Provincial Governor, Vice-Governor, Sangguniang Panlalawigan members and other elective provincial positions of the Province of Isabela, and any such qualified voter can be a candidate for such provincial positions and any elective provincial office.'

"Sec. 3. *Repealing Clause.*– All existing laws or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

"Sec. 4. *Effectivity.*– This Act shall take effect upon its approval.

"Approved."

Petitioners assail the constitutionality of R.A. No. 8528.^[2] They alleged as ground the lack of provision in R.A. No. 8528 submitting the law for ratification by the people of Santiago City in a proper plebiscite. Petitioner Miranda was the mayor of Santiago at the time of the filing of the petition at bar. Petitioner Afiado is the President of the *Liga ng mga Barangay ng* Santiago City. Petitioners Dirige, Cabuyadao and Babaran are residents of Santiago City.

In their Comment, respondent provincial officials of Isabela defended the constitutionality of R.A. No. 8528. They assailed the standing of petitioners to file the petition at bar. They also contend that the petition raises a political question over which this Court lacks jurisdiction.

Another Comment was filed by the Solicitor General for the respondent public officials. The Solicitor General also contends that petitioners are not real parties in interest. More importantly, it is contended that R.A. No. 8528 merely *reclassified* Santiago City from an independent component city to a component city. It allegedly did not involve any "creation, division, merger, abolition, or substantial alteration of boundaries of local government units," hence, a plebiscite of the people of Santiago is unnecessary.

A third Comment similar in tone was submitted by intervenor Giorgidi B. Aggabao,^[3] a member of the provincial board of Isabela.^[4] He contended that both the Constitution and the Local Government Code of 1991 do not require a plebiscite "to approve a law that merely allowed qualified voters of a city to vote in provincial

elections. The rules implementing the Local Government Code cannot require a plebiscite. He also urged that petitioners lacked *locus standi*.

Petitioners filed a Reply to meet the arguments of the respondents and the intervenor. They defended their standing. They also stressed the changes that would visit the city of Santiago as a result of its reclassification.

We find merit in the petition.

First. The challenge to the *locus standi* of petitioners cannot succeed. It is now an ancient rule that the constitutionality of law can be challenged by one who will sustain a direct injury as a result of its enforcement.^[5] Petitioner Miranda was the mayor of Santiago City when he filed the present petition in his own right as mayor and not on behalf of the city, hence, he did not need the consent of the city council of Santiago City. It is also indubitable that the change of status of the city of Santiago from independent component city to a mere component city will affect his powers as mayor, as will be shown hereafter. The injury that he would sustain from the enforcement of R.A. No. 8528 is direct and immediate and not a mere generalized grievance shared with the people of Santiago City. Similarly, the standing of the other petitioners rests on a firm foundation. They are residents and voters in the city of Santiago. They have the right to be heard in the conversion of their city thru a plebiscite to be conducted by the COMELEC. The denial of this right in R.A. No. 8528 gives them proper standing to strike the law as unconstitutional.

Second. The plea that this court back off from assuming jurisdiction over the petition at bar on the ground that it involves a political question has to be brushed aside. This plea has long lost its appeal especially in light of Section 1 of Article VIII of the 1987 Constitution which defines judicial power as including "the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government." To be sure, the cut between a political and justiciable issue has been made by this Court in many cases and need no longer mystify us. In *Tañada v. Cuenco*,^[6] we held:

"x x x

"The term 'political question' connotes what it means in ordinary parlance, namely, a question of policy. It refers 'to those questions which under the Constitution are to be decided by the people in their sovereign capacity; or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government.' It is concerned with issues dependent upon the wisdom, not legality, of a particular measure."

In *Casibang v. Aquino*,^[7] we defined a justiciable issue as follows:

"A purely justiciable issue implies a given right, legally demandable and enforceable, an act or omission violative of such right, and a remedy granted and sanctioned by law, for said breach of right."

Clearly, the petition at bar presents a justiciable issue. Petitioners claim that under Section 10, Article X of the 1987 Constitution they have a right to approve or disapprove R.A. No. 8528 in a plebiscite before it can be enforced. It ought to be self-evident that whether or not petitioners have the said right is a legal not a political question. For whether or not laws passed by Congress comply with the requirements of the Constitution pose questions that this Court alone can decide. The proposition that this Court is the ultimate arbiter of the meaning and nuances of the Constitution need not be the subject of a prolix explanation.

Third. The threshold issue is whether R.A. No. 8528 is unconstitutional for its failure to provide that the conversion of the city of Santiago from an independent component city to a component city should be submitted to its people in a proper plebiscite. We hold that the Constitution requires a plebiscite. Section 10, Article X of the 1987 Constitution provides:

“No province, city, municipality, or *barangay* may be created, or divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

This constitutional requirement is reiterated in Section 10, Chapter 2 of the Local Government Code (R.A. No. 7160), thus:

“Sec. 10. No province, city, municipality, or *barangay* may be created, divided, merged, abolished, or its boundary substantially altered except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

The power to create, divide, merge, abolish or substantially alter boundaries of local government units *belongs to Congress*.^[8] This power is part of the larger power to enact laws which the Constitution vested in Congress.^[9] The exercise of the power must be in accord with the mandate of the Constitution. In the case at bar, the issue is whether the downgrading of Santiago City from an independent component city to a mere component city requires the approval of the people of Santiago City in a plebiscite. The resolution of the issue depends on whether or not the downgrading falls within the meaning of creation, division, merger, abolition or substantial alteration of boundaries of municipalities per Section 10, Article X of the Constitution. A close analysis of the said constitutional provision will reveal that the creation, division, merger, abolition or substantial alteration of boundaries of local government units involve a *common denominator* - - - material change in the political and economic rights of the local government units directly affected as well as the people therein. It is precisely for this reason that the Constitution requires the approval of the people “in the political units *directly* affected.” It is not difficult to appreciate the rationale of this constitutional requirement. The 1987 Constitution, more than any of our previous Constitutions, gave more reality to the sovereignty of our people for it was borne out of the people power in the 1986 EDSA revolution. Its Section 10, Article X addressed the undesirable practice in the past whereby local government units were created, abolished, merged or divided on the basis of the vagaries of politics and not of the welfare of the people. Thus, the consent of the people of the local government unit directly affected was required to serve as a checking mechanism to any exercise of legislative power creating, dividing,

abolishing, merging or altering the boundaries of local government units. It is one instance where the people in their sovereign capacity decide on a matter that affects them - - - direct democracy of the people as opposed to democracy thru people's representatives. This plebiscite requirement is also in accord with the philosophy of the Constitution granting more autonomy to local government units.

The changes that will result from the downgrading of the city of Santiago from an independent component city to a component city are many and cannot be characterized as insubstantial. For one, the independence of the city as a political unit will be diminished. The city mayor will be placed under the administrative supervision of the provincial governor. The resolutions and ordinances of the city council of Santiago will have to be reviewed by the Provincial Board of Isabela. Taxes that will be collected by the city will now have to be shared with the province. Petitioners pointed out these far reaching changes on the life of the people of the city of Santiago, viz:^[10]

"Although RESPONDENTS would like to make it appear that R.A. No. 8528 had "*merely re-classified*" Santiago City from an independent component city into a component city, the effect when challenged (sic) the Act were operational would be, actually, that of conversion. Consequently, there would be *substantial changes* in the political culture and administrative responsibilities of Santiago City, and the Province of Isabela. Santiago City from an independent component city will revert to the Province of Isabela, geographically, politically and administratively. Thus, the territorial land area of Santiago City will be added to the land area comprising the province of Isabela. This will be to the benefit or advantage of the Provincial Government of Isabela on account of the subsequent increase of its share from the internal revenue allotment (IRA) from the National Government (Section 285, R.A. No. 7160 or the Local Government Code of 1991). The IRA is based on land area and population of local government units, provinces included.

"The nature or kinds, and magnitude of the taxes collected by the City Government, and which taxes shall accrue solely to the City Government, will be redefined (Section 151, R.A. No. 7160), and may be shared with the province such as taxes on sand, gravel and other quarry resources (Section 138, R.A. No. 7160), professional taxes (Section 139, R.A. No. 7160), or amusement taxes (Section 140, R.A. No. 7160). The Provincial Government will allocate operating funds for the City. Inarguably, there would be a (sic) diminished funds for the local operations of the City Government because of reduced shares of the IRA in accordance with the schedule set forth by Section 285 of the R.A. No. 7160. The City Government's share in the proceeds in the development and utilization of national wealth shall be diluted since certain portions shall accrue to the Provincial Government (Section 292, R.A. No.7160).

"The registered voters of Santiago City will vote for and can be voted as provincial officials (Section 451 and 452 [c], R.A. No. 7160).

"The City Mayor will now be under the administrative supervision of the Provincial Governor who is tasked by law to ensure that every component city and municipality within the territorial jurisdiction of the province acts